

26 NOV 2002



UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

#8

MILLEN, WHITE, ZELANO & BRANIGAN, P.C.
2200 Clarendon Blvd., Suite 1400
Arlington, VA 22201

In re Application of :
SUCK, Roland *et al* :
Application No.: 10/069,285 :
PCT No.: PCT/EP00/08059 :
Int. Filing Date: 18 August 2000 :
Priority Date: 24 August 1999 :
Attorney Docket No.: MERCK 2386 :
For: METHOD FOR ISOLATING AND :
PURIFYING GRASS POLLEN :
ALLERGENS :

**DECISION
UNDER
37 CFR 1.182**

This decision is in response to applicants' "Reply to Notification of Defective Response and Request for Correction of Inventorship Under 37 C.F.R. § 1.48(a)" filed on 08 August 2002.

BACKGROUND

On 22 April 2002, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements under 35 U.S.C. 371 indicating that an oath/declaration in compliance with 37 CFR 1.497(a) and (b) and a surcharge fee pursuant to 37 CFR 1.492(e) was required. Applicants were given two months to respond.

On 21 June 2002, applicants filed a response which included a declaration and the surcharge fee. However, the declaration listed four inventors while the international publication ("WO 01/13946") lists only three inventors. Sabine Schoen was added as a joint inventor but she did not sign the declaration.

On 09 July 2002, the DO/EO/US mailed a Notification of a Defective Response (Form PCT/DO/EO/916) indicating that the declaration submitted on 21 June 2002 does not comply with 37 CFR 1.497(a) and (b) as it was not executed in accordance with 37 CFR 1.66 or 37 CFR 1.68 and the fourth named inventor Sabine Schoen, was not listed on the international application.

On 08 August 2002, applicants submitted the instant response which was accompanied by, *inter alia*, a \$130.00 fee, an executed declaration, a document titled "Statement by Sabine Schoen for Correction of Inventorship under 37 C.F.R. § 1.48(a)" and a document titled "Statement by Assignee for Correction of Inventorship under 37 C.F.R. § 1.48(a)"

EXAMINATION REPORT

DATE

2002

DISCUSSION

Applicants submitted a petition under 37 CFR 1.48(a) to remove Sabine Schoen as an inventor of the above-captioned application. A petition under 37 CFR 1.48(a) is not appropriate here. Rather, a petition pursuant to 37 CFR 1.182 to correct the submission of an improper inventive entity listed on the declaration is required. Therefore, the papers have been treated as a petition pursuant to 37 CFR 1.182.

Applicants provided a newly executed declaration naming the appropriate inventive entity with the instant petition. This declaration complies with the requirements of 37 CFR 1.497(a) and (b). A petition fee of \$130.00 has also been provided.

CONCLUSION

Applicants' petition under 37 CFR 1.182 is **GRANTED**.

Applicants have completed the requirements for acceptance under 35 U.S.C. 371(c). The application has an international filing date of 18 August 2000, under 35 U.S.C. 363, and a 35 U.S.C. 371 date of **08 August 2002**.

This application is being forwarded to the National Stage Processing Division of the Office of PCT Operations for continued processing


James Thomson
Attorney Advisor
PCT Legal Office

Tel.: (703) 308-6457